

Attachment 4



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U.S. Department of State

Office of Inspector General

**Review of Nonimmigrant Visa Issuance
Policy and Procedures**

Memorandum Report ISP-I-03-26, December 2002

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(5 U.S.C. 552) for public release.**

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REVIEW OF NONIMMIGRANT VISA ISSUANCE POLICY AND PROCEDURES

MEMORANDUM REPORT ISP-I-03-26

DECEMBER 2002

Introduction

The Office of the Inspector General (OIG) reviewed the procedures and processes involved in the issuance of nonimmigrant visas (NIVs) at U.S. missions worldwide at the request of Senator Charles Grassley. The objectives of the review were to determine whether: 1) visa policies adequately satisfy the requirements of national security, 2) procedures in place, particularly concerning the waiver of personal appearances and the involvement of travel agencies in the process, are appropriate, 3) consular officers and staff are properly trained to adjudicate visa applications to maintain national security, and 4) resources are adequate to meet the demands of visa processing.

This study was conducted prior to the passage of the Homeland Security Act¹; however, the recommendations were made taking the act into consideration and with the belief that they are consistent with its provisions.

Background and Summary: Visa Processing, a System Currently Inadequate to the Task

The events of September 11, 2001, notably changed our perspective on the admission of aliens to the United States. In retrospect, the previous emphasis on immigration left the United States vulnerable to the threat of aliens intent not on remaining in the country as immigrants, but in harming American citizens and institutions. The NIV issuance process as it existed before September 11 was inadequate to meet that threat. Since September 11 steps have been taken to address this problem, though existing policies and resources remain inadequate. This report addresses several elements of this issue including policy, staffing, secure workspace, and training. A classified annex addresses findings concerning the Visas Viper Program established in 1993 to identify potential terrorists and make their names available in the Consular Lookout and Support System (CLASS).

NIV processing has long been the largest function of most consular sections abroad, making enormous resource demands, both human and physical, and only recently providing the Department with a unique source of revenue used in part to expand and modernize visa services. While demand for NIVs to travel to the United States grew, security concerns at embassies and consulates abroad rapidly escalated as attacks on overseas missions² increased. Traditionally the focus of concern has been on immigration, legal and illegal.

¹ Pub. L. No. 107-296 (2002).

² In this report "mission" is understood to mean the entire U.S. presence in a foreign country under the authority of the "chief of mission," the ambassador. Embassies and consulates are referred to as "posts," usually by the city in which they are located, e.g. Embassy London or "posts in the Middle East."

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Pressures to increase immigration to the United States have grown in periods of economic prosperity in our country and hardship abroad. The “pull” factor of American prosperity and the “push” factors of economic hardship and political and social unrest abroad have focused Congressional action and Department policy on immigration. As a result of this emphasis, staffing, training, and procedures were all directed at determining whether visa applicants were “intending immigrants.” Other considerations, including identifying potential terrorists, received less attention. The Department’s major security consideration was the safety of the embassies and consulates and their employees rather than with the visa process. To that end, efforts were made to reduce the number of visitors to consular sections.

The Immigration and Nationality Act (INA), as amended³ considers all aliens applying for a nonimmigrant visa permitting entry to the United States to be intending immigrants, unless they can prove otherwise to the officer adjudicating the NIV application. The burden of proof is on the applicant, and a finding that the applicant has not met the burden under section 214b⁴ is the basic and most frequent reason for an NIV denial. The INA also contains a list of specific categories of applicants who are automatically ineligible, including convicted felons and terrorists. The primary tool available to the adjudicating consular officer in preventing NIV issuance to these categories of applicants is CLASS. [----

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All applicants for an NIV are required by law and regulation (INA sec. 222e, 22 CFR 41.102, 9 FAM 41.101 N3 and 9 FAM 41.102 N2/3) to appear for a personal interview. However, the INA provides for a waiver of this personal appearance requirement if it is deemed to be in the national interest. The rapidly increasing volume of applications beginning in the 1970s, coupled with serious staffing shortages, led to policy decisions that encouraged consular officers to waive personal appearances for ever larger numbers of NIV applicants. The passage of visa waiver legislation helped lessen the visa workload in some countries⁵. The automation of the NIV process in the 1990s made the visa process more secure (by reducing opportunities for employee malfeasance, and increasing the integrity of the visa stamp itself), but significantly more time-consuming due to more required steps in the process. This increased pressures on visa sections to “work smarter” and seek any efficiencies possible in the NIV process.

All of these changes occurred in an environment that sought to maximize legitimate travel to the United States, while identifying illegal immigrants and preventing them from traveling. Indeed, in 1998 the General Accounting Office was asked to study the causes of visa delays at posts around the world with an eye towards speeding up the NIV process

³ Pub. L. No. 82-414, as amended (1952); 8 U.S.C. 1101 et seq. (2002).

⁴ 8 U.S.C. 1184 (2002).

⁵ List of Visa Waiver Countries: Andorra, Austria, Australia, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, The Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, United Kingdom, and Uruguay.

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(Tourist Visas Processing Backlogs Persist at U.S. Consulates Letter Report, 03/13/98, GAO/NSIAD-98-69). Despite the first attack on the World Trade Center, terrorism and security were perceived as problems primarily for U.S. missions abroad where large numbers of visa applicants queuing in front of the chancery were perceived as a threat. Diplomatic security officers continued to work with consular officers to limit and control access to consular sections.

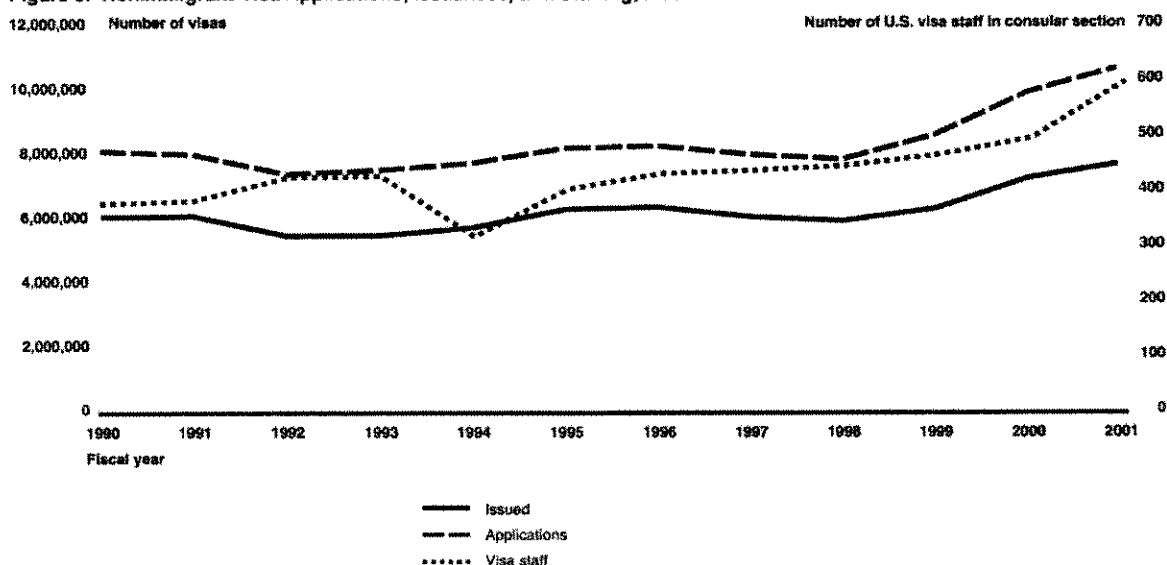
Also adding to the complexity of managing NIV operations worldwide are the vast disparities among the over 200 visa-issuing posts. The majority of NIVs are issued at a handful of posts, including Mexico City and Seoul, staffed by dozens of officers and directed by senior consular officers. Many more posts issue a few thousand NIVs annually and are staffed by a few officers of lesser rank and experience. Some missions issue even fewer NIVs and also experience a low demand for other consular services. These posts are usually staffed by one officer, who may perform consular operations in conjunction with other mission responsibilities.

As NIV demand grew steadily from the 1970s through the 1990s, consular managers, encouraged by Washington, have addressed the lack of officers with a variety of approaches, often referred to under the term "customer service." These approaches have included "interview by exception" and a variety of other means of limiting the number of applicants actually visiting consular sections. At the same time, the Bureau of Consular Affairs (CA) spent millions of dollars on modern computer-based processing equipment designed to improve the security of the system. Although providing tools that, properly used, significantly enhanced the security of the U.S. visa and the adjudication process, these developments have slowed the process and required more human resources. Visa sections have had to make hard decisions about how to allocate their limited resources to manage the workload.

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Figure 3: Nonimmigrant Visa Applications, Issuances, and Staffing, Fiscal Years 1990-2001



Note: Staffing figures are estimates.

Source: State Department data.

Source: GAO

This survey addresses the several aspects of NIV processing at posts abroad under the policy direction of the Visa Office in CA. The report identifies weaknesses and recommends actions to remedy the problems. The assumption underlying these recommendations is that national security is the first priority, but that the need to limit illegal immigration also remains an important priority. The fieldwork for this survey was completed prior to the passage of legislation creating the Department of Homeland Security and vesting it with policy authority with regard to the visa process. The findings and recommendations made in this report remain valid even with this transfer of authority.

Methodology

OIG conducted this review between July and November 2002. Two questionnaires were sent to all visa issuing posts, listed in Appendix A. The first surveyed policies and procedures concerning NIV application and adjudication. The second, a classified questionnaire, surveyed the Visas Viper Program. Site visits were conducted by OIG inspectors at 27 posts, as listed in Appendix B. The posts visited were selected because they were in the Middle East, or because they processed high numbers of applications from aliens of special interest. Site visits included interviews with ambassadors and deputy chiefs of mission (DCM), agency heads, section chiefs, and consular personnel. OIG fieldwork also included personal interviews in Washington as follows:

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Department of State Bureaus

Bureau of Consular Affairs
Executive Office
Visa Office
Bureau of Intelligence and Research
Bureau of Human Resources
Foreign Service Institute

Other Government Organizations

Central Intelligence Agency
Federal Bureau of Investigation
Immigration and Naturalization Service
National Security Agency
Drug Enforcement Administration
U.S. Customs Service
General Accounting Office
U.S. Secret Service

Major contributors to this report were Charles Anderson (issue area manager), Robert Mustain (project manager), and inspectors, Douglas Ellice, Norbert Krieg, [----- (b)(6) -----], John Parker, Marlene Schwartz, and Michele Truitt. The portion of this report dealing with the Visas Viper Program is classified.

Policy Issues

Waivers of Personal Appearance

Each visa issuing post establishes its own policy and conditions for a waiver of personal appearance. Policies differ widely based on local conditions and the perceived risk of fraud or security threat. At some posts the policy is not clearly articulated and wide differences exist in how restrictive or expansive individual policies are. CA and the regional bureaus have not evaluated or approved these policies in the past. In general, posts with low refusal rates and a lower incidence of fraud in the context of 214b have had the most liberal waivers of personal appearance. Posts with higher incidence of fraud usually require interviews of a much higher percentage of applicants. After September 11 most of the posts visited as part of this survey told the inspectors that they had sharply restricted waivers of personal appearance and now interview virtually all applicants. Other posts, especially high volume posts, continue to interview a lower percentage of applicants, but have nevertheless significantly increased the percentage of interviews. Almost all posts reported some waivers of personal appearance, especially for the lowest risk categories of foreign diplomats and U.S. government-sponsored travelers.

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Personal appearance waiver programs utilize a variety of tools that have been developed to manage workload and reduce the security threat to overseas missions. Applications are accepted by mail in many countries. In others, applications are submitted through a drop box, a courier agency, or a travel agency. At a few posts applications are received from airlines, banks, or other companies approved by posts. Government ministries and agencies have also been allowed to submit applications directly. Although the waiver of the personal appearance requirement is viewed by the applicant as a benefit, the various programs serve to limit crowds and allow for efficient scheduling of applicants who are required to appear. One consular manager noted, "I waive the personal appearance whenever it benefits our visa operation, not to accommodate the applicant, regardless of perceptions." This was said in the context of the officer just having waived the personal appearance of an internationally known entertainer whose appearance would certainly have disrupted normal operations.

As consulates were closed in many countries and communications were improved, the number of visa-issuing posts was reduced. As NIV operations were consolidated, the pressure to waive personal appearances increased. Potential applicants sought referrals to avoid traveling, sometimes for long distances and across international boundaries, to the mission for an interview. The waiver of personal appearance policy at any post will affect the use of the post's referral policy. The more restrictive policies increase the number of requests made to other elements of the mission for referrals.⁶ Applicants assume that a referral will guarantee the issuance of an NIV.

Policies concerning the waiver of personal appearance were inconsistent, and interviewing techniques needed improvement. However, interviewing all applicants will not entirely eliminate the risk of a potential terrorist with a visa entering the United States. Committed and trained terrorists will probably be able to defeat interview procedures. Because of the limitations on the NIV interview, even with better training for the interviewers and more time for thorough questioning, there is no guarantee that terrorists will be identified. The visa interview is not a substitute for good intelligence information available to visa adjudicators through CLASS.

Nonetheless, a better balance is needed among interviews, waivers of personal appearance, and document review and analysis. The interview is a fundamental information collection tool that often improves the consular officer's ability to assess an applicant's credibility. It enables the visa adjudicator to look behind pat or evasive answers on an application form and it adds integrity to the adjudication process. Information can be verified and applicants held personally responsible for their statements. As a general rule, vulnerabilities would be reduced with a greater number of interviews. For this reason, while waivers of personal appearance are sometimes appropriate, they must be carefully managed.

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⁶ A referral is a recommendation by the chief of another section of the mission that the consular section issue a NIV without an interview. This process, intended in part as a management control to provide accountability, is discussed in detail below.

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While interviewing every visa applicant will not in and of itself prevent terrorists from obtaining visas, there should be more interviews, longer interviews, and interviewers who are better trained to identify terrorists.

Recommendation 1: The Bureau of Consular Affairs, Office of Visa Services, should develop and implement a policy requiring each mission to create a personal appearance waiver program that is based on local conditions and approved by the chief of mission. Program requirements should be in writing and available to the entire mission. Each mission program should be reviewed and approved by the Office of Visa Services and the appropriate regional bureau before implementation. Any changes should be submitted for review and approval prior to being instituted. As a general rule, a greater percentage of visa applicants should be interviewed. (Action: CA/VO)

Travel Agency Referral Program

Travel agents have played a role in the visa process since at least the early 1970s. Some posts find that agents are helpful in collecting applications from clients and submitting them for NIV processing. In countries where NIVs are not often required, agents help explain the process to applicants. Travel agents often provide a first review, ensuring that basic requirements are met (forms signed, photos attached, passports valid) before applications are sent to the visa section. Special computer programs permitted embassies to enlist travel agents to perform initial data entry, taking the burden of that task from consular section employees. Having the applications in hand also allows posts to prescreen them and schedule necessary interviews, while specifying any additional information or documentation required. Travel agencies have proved to be useful at a limited number of posts. The majority of visa issuing posts, however, have found travel agents either uninterested in the extra work or unreliable. At present travel agent referral programs exist at 38 posts that are listed in Appendix C.

There are wide variations in how travel agency referral programs (TARPs) are established and administered. There are no standard criteria and no guidance to recruit and select travel agents. Training varies from extensive to almost nonexistent. Some posts meet regularly with travel agents to review regulations and discuss problems. Others rely on occasional telephone contacts. Some posts conduct validation studies to identify the sources of bad cases, including those from travel agents. Others had never done so, and CA guidance on conducting validation studies is not widely known or followed.⁷ Some posts have removed travel agents from the program, while others have not. Some posts include their TARP in the Chief of Mission annual certification and risk assessment review.⁸ Others do not. Except where all applications were channeled through travel agents, there is no evidence

⁷ This guidance is contained in 98 State 046225 and available on the CA/FPP website.

⁸ 2 FAM 022.5, in compliance with the Federal Managers' Financial Integrity Act (31 U.S.C. 3512), requires chiefs of mission to report yearly on the status of management controls and financial systems.

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that travel agents were being used to submit visa applications for terrorist suspects. Where travel agents had been dropped from a program, or programs stopped entirely, the problems often related to illegal immigration cases.

All applications submitted through travel agents must be processed through the CLASS name check system and adjudicated by an officer. In most cases these applications are subjected to the same scrutiny as all other applications. However, there are incidences where, at least in the past, applications submitted through travel agents were not reviewed as rigorously as those from other sources.

Recommendation 2: The Department should create a model travel agent referral program that includes regular review of participating travel agencies and regular validation studies. The Department should then send this model to all visa issuing posts requiring each to establish its own written travel agency referral program policy consistent with local conditions and send a copy of the resulting policy, and any subsequent modifications, to the Office of Visa Services for approval prior to implementation. (Action: CA/VO, in coordination with regional bureaus)

CA Oversight and Procedural Guidance

CA has allowed posts to develop their own procedures and, to some degree, policies concerning the visa process, as long as they were consistent with law and regulations. Posts are required to use approved forms and to clear post-specific forms with CA. In recent years CA developed standardized signage for consular sections, and the Bureau of Overseas Buildings Operations developed standards for interviewing booths. However, oversight has been uneven, and, as local conditions change and officers rotate, posts often make changes without notice to and approval from Washington. CA frequently learns of these changes only when problems develop. Some of these procedures are well conceived and could be adopted elsewhere, but there is no central clearing procedure. At least three systems of tracking Visas Condor clearances⁹ have been developed by posts with high numbers of clearance cases to track, but none was in general use and none had been submitted to Washington. Other posts that have not developed a system are struggling to keep track of these cases.

Various posts are initiating new methods of handling visa applications and applicants to simplify the process and free up more staff time for critical, security related functions. One post no longer uses officers to reinterview Section 221(g) cases¹⁰ that have been preadjudicated, but simply has a Foreign Service national (FSN) determine that documents submitted are adequate to meet the requirements for issuance. Another is contracting with a

⁹ "Visas Condor" is the name given to a request from the post to Washington for clearance to issue a visa to a male national between the ages of 16 and 45 from a classified list of countries. A visa cannot be issued without a positive response from Washington agencies.

¹⁰ Section 221g of the INA (8 U.S.C. 1201(g).) provides for a quasi-refusal when an applicant is found to be lacking a specific document or clearance but is found to be otherwise qualified. Once the deficiency is satisfied the visa can be issued.

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courier service, avoiding the need for visa applicants to collect their passports and immigrant visas at the consular section. A third post is contracting out the NIV remote data entry function to its appointment system contractor to preclude the need for section staff to perform the laborious task of electronically keying-in basic applicant biographic information.

Document fraud is endemic in some parts of the world and could lead to security breaches in visa processing. The activities of fraud prevention units (FPU) worldwide are not effectively coordinated or integrated into the visa systems technology. CA's Office of Fraud Prevention Programs similarly lacks full integration into the visa process. The results of fraud investigations are not systematically collated or stored in the Consular Consolidated Database that could be linked with other information on pertinent applicants. Visa officers continue to work with little information or training when examining applicants' documents or reviewing their travel history. The current database is incomplete and not linked to other useful domestic databases. Posts that process large volumes of employment related visas are not linked with U.S. databases that could be used to verify financial and credit data or job history.

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Recommendation 3: The Bureau of Consular Affairs, Office of Visa Services should develop standard operating procedures covering all aspects of the visa application process appropriate to different size missions. Every visa-issuing post should be required to propose written, post-specific modifications to these standard operating procedures and submit them for review and approval by the Office of Visa Services. Changes in the procedures should be submitted to the Office of Visa Services for approval prior to implementation. (Action: CA/VO)

In the months after September 11, CA has struggled to revise or establish policies and procedures to address the new awareness of the threat of potential terrorists. This effort has included new clearance procedures and changes in existing procedures. Previously, for example, most Washington clearances had an established time period, 20 or 30 days, after which, if no derogatory information was received at post, a visa could be issued. This procedure has been tightened now to require an affirmative clearance from Washington. A new clearance procedure, "Visas Condor," was required for certain aliens from a classified list of countries. These instructions have been modified several times, and some were issued and remain in classified cables. Officers in the field have struggled to apply these regulations correctly and keep current with changes as they are made. Few consular sections are approved to store classified information. As a result, these instructions are often not available to the adjudicating officers where and when they are needed. It should be noted that the new clearance procedures, especially Visas Condor, have not identified any potential

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terrorists applying for visas. The time spent processing these clearances may actually distract consular officers from interviewing and other tasks better suited to making the process more secure. It would be most effective if one database check were used and made as comprehensive as possible. If CLASS contained an up-to-date list of known or suspected terrorists it would provide the best defense against terrorists obtaining a visa.

Recommendation 4: The Department should review the clearance procedures instituted since September 11 and determine which clearance requirements are providing improved security. Such a review should, inter alia, result in the development of a single database check for all visa applications. After this review, clearance procedures should be revised and new instructions issued. (Action: D/HS, in coordination with CA/VO)

Recommendation 5: All NIV processing instructions should be issued in unclassified form so that they can be readily available in the visa section of every post. If it is impossible to declassify all the instructions, the Department should create classified storage areas in each consular section to allow for storage of material classified up to the secret level. (Action: OBO, in coordination with DS)

Executive Oversight

Consular officers in the visa section ultimately report to and are supervised by the ambassador and DCM, collectively referred to as the "executive office." The DCM is the reviewing officer for all junior officer efficiency reports. Consular managers are directly supervised by the DCM and reviewed by the ambassador. Although by law a consular officer cannot be ordered to issue a NIV, the executive office of the mission can influence individual cases and overall visa policy. Other sections of the mission often appeal to the executive office for the issuance of certain visas - for example, the commercial section may appeal for favorable consideration for travelers seeking to visit the United States as part of a trade mission. Prominent local figures often appeal directly to the ambassador or DCM for reconsideration of the visa refusal of a relative or friend. General NIV policy can also be influenced when the ambassador believes refusal rates are too high or personal appearance policies are too strict.

In smaller missions, management often has a more direct role to play in NIV operations. All visa refusals and a percentage of issuances must be reviewed by an officer's supervisor. In a large section, this review is performed by the senior, and experienced, consular manager. [-----

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-----] Recent Department instructions (2002 State 111136 and 2002 State 147564) provided guidelines for posts with only one consular officer on how oversight of the visa function should be performed. The problem of executive office influence over the adjudication of visas is common in missions with small consular sections.

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Recommendation 6: The Department regulations requiring the review of all nonimmigrant visa refusals and a percentage of nonimmigrant visa issuances should set forth procedures for doing so at posts where the executive office is directly responsible for such reviews. Procedures should also be put into effect when the deputy chief of mission or ambassador is not trained to perform an adequate review. (Action: CA/VO, in coordination with M/DGHR)

The NIV referral system is designed to facilitate the issuance of visas to those foreign nationals whose travel is deemed to be clearly in U. S. government's interest. It is a formal written policy and procedure (described in Appendix K of Volume 9 of the Foreign Affairs Manual) whose purpose is to record mission requests to expedite certain NIVs. When properly administered, it is a useful method to facilitate visa issuance in cases that involve U.S. government interests or promote U.S. public diplomacy efforts. Class "A" referrals from other embassy sections and agencies almost invariably lead the visa officer to waive the personal appearance, because the applicant is personally known to the referring officer who claims that their proposed travel will promote U.S. national interests. The beneficiaries are excused (02 STATE 016413) from a new security advisory opinion requirement (Visas Condor) and are also likely to be exempted from the new Department of Justice "National Security Entry Exit Registration System" (NSEERS).¹¹

Individuals who otherwise would not have qualified for an NIV have sometimes misused the referral system. [-----

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-----] There have also been several instances of malfeasant employees selling NIV referrals. Within the last two years, felony convictions were obtained in U.S. courts against a Drug Enforcement Administration employee in Africa, and a Department of Commerce employee in Mexico.

The Department has attempted to address the problem of improper mission influence on visa officers by issuing clearer policies on NIV referrals intended to put responsibility for Class "A" referrals with the referring agency head or section chief (2002 State 096111). These instructions have helped clarify referral system policy and make it consistent worldwide.¹² Additional improvements need to be implemented further to focus responsibility and accountability for these requests on the actual referrers. Many referrals are actually initiated and promoted by FSNs in the referring officer's section or agency. The individual FSN is not mentioned on the referral form, only the (American) section chief transmitting the form. Signature responsibility for submitting the Class "A" form currently is limited only to section/agency heads. (Although the chief of mission is ultimately responsible for enforcing the referral system and ensuring that adjudicating officers are free to follow their judgment in all NIV cases, chiefs of mission may also submit Class "A" referrals.) The referring officers for Class "A" NIV referrals do not specifically spell out

¹¹ Consular officers retain the discretion to require personal appearance and name checks in all cases.

¹² State 09611 of May 18, 2001, "New Guidance on Visa Referral Systems," sets the standards for referrals for all mission elements and defines executive responsibility.

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their accountability on the form. For example, a certification could read as follows: "I certify that, to the best of my knowledge, this alien does not pose a threat to the safety or national security of the U.S." In addition to not being required to make that certification, referring officers can exert pressure to waive special clearance procedures. Only a chief of mission should be authorized to waive Class "A" referral beneficiaries from the Visas Condor security clearance requirements. The Visas Condor checks require more extensive vetting and time-consuming clearances in Washington. The Visas Condor clearance waiver does not, however, preclude a CLASS name check, which is required of all applicants.

Recommendation 7: The Bureau of Consular Affairs, Office of Visa Services, should further strengthen the nonimmigrant referral system by adding an accountability certification to Class "A" referral forms. If a Foreign Service national is recommending a Class "A" referral to his or her section chief, that Foreign Service national's name should be included on the form as well as the name of the approving section/agency chief. (Action: CA/VO)

Recommendation 8: The Department should require that only upon the specific written recommendation of the chief of mission may Class "A" referral beneficiaries be exempted from the Visas Condor clearance requirement. (Action: CA)

Staffing

Consular sections, responsible for the visa function and providing services for American citizens abroad, are staffed by consular cone¹³ officers and by junior officers from all cones who traditionally serve at least one year in a consular position during their first four years in the Foreign Service. This "rite of passage" for most officers anticipating careers in the administrative, economic, public affairs, or political cones is often considered a period to be endured and kept as short as possible. The Bureau of Human Resources (HR) created increasing numbers of "rotational assignments" worldwide in which junior officers serve one year in a consular section followed by a year in a position in another section of an embassy corresponding to the officer's future career track. HR favors this policy because it gives broader experience to new officers. The policy, however, makes consular section managers into perpetual training officers; frequently, junior officers bear the burden of training new arrivals as well.

As hiring failed to match attrition, there were fewer experienced mid-level consular cone officers to fill mid-level positions worldwide. Junior officers were then assigned to these positions in "stretch" assignments. The Department also developed a variety of other strategies to fill vacant consular positions, such as hiring American family members, and encouraging Civil Service employees to take one-time assignments to vacant positions abroad (excursion tours). Other strategies, however, have not been developed, including

¹³ "Cone" is the Department term for a generalist officer's functional specialty. There are five: consular, administrative, political, economic, and public affairs.

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hiring language qualified applicants on limited nonrenewable Foreign Service appointments for up to five years, as authorized by Section 309 of the Foreign Service Act, as amended.¹⁴

Worldwide consular staffing, particularly in large visa units and at one-person consular sections, is inadequate to meet the increased demand. Established positions are unfilled for long periods, or are filled by inexperienced junior officers. The dearth of mid-career officers is particularly evident. [-----]

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Recommendation 9: The Department should discontinue most junior officer rotational assignments that include one year in a consular section and instead assign each junior officer to a two-year consular tour. (Action: M/DGHR, in coordination with CA)

Recommendation 10: The Bureau of Human Resources should utilize all alternate staffing programs that are available, including hiring language-qualified employees on limited non-career appointments, to staff consular sections. (Action: M/DGHR)

Consular positions typically are classified using criteria that emphasize workload statistics and supervisory responsibilities. Before September 11, position classification did not focus primarily on the political ramifications, complexity, or scope of decisions that consular officers were required to make. Virtually all one officer consular sections were graded as junior officer positions, even though incumbents had to respond to and make important decisions on the gamut of consular responsibilities.

Two-officer consular sections are typically supervised by an FS-03 tenured consular officer. Junior officers, as noted above, often fill positions at this level because there are many more FS-03 positions available than officers at grade to fill them. For some officers, these are their first assignments in the Foreign Service. The Department has attempted to mitigate this problem by assigning seasoned officers as regional consular officers who can advise and mentor their more junior colleagues. Some regional officers supervise their own consular sections along with their mentoring responsibilities; others have no post specific assignments. Regional officers are assigned up to 15 posts. They have no supervisory responsibilities for these posts and are limited to advising the consular officers and post management. They visit posts as best they can, often less than once a year.

In the smallest sections, the designated consular officer traditionally is assigned many portfolios. Nonconsular responsibilities often are given precedence over consular duties and detract from the officer's responsibility to be current on regulations, procedures, and guidelines, particularly in today's security conscious post-September 11 environment.

¹⁴ 22 U.S.C. 3949 (2002).

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Recommendation 11: The Bureau of Human Resources, in conjunction with the Bureau of Consular Affairs, should review all consular positions to determine appropriate position classifications and grades in light of new complexities in consular work, security concerns, and antiterrorist initiatives. (Action: M/DGHR, in coordination with CA/VO)

Recommendation 12: The Department should establish procedures to ensure that only officers who have completed at least one consular assignment are assigned to a one-person consular section. (Action: M/DGHR in coordination with CA)

Recommendation 13: The Department should assess and reallocate consular workloads worldwide, and, where missions do not have sufficient consular work to justify a full time consular position, to the extent possible, the work should be performed regionally. Any duties that must be performed in country should be assigned to a tenured officer. (Action: CA, in coordination with M/DGHR)

Recommendation 14: The Department should conduct a worldwide review to determine where regional consular positions, vested with supervisory responsibilities and mandated to visit each post quarterly, are appropriate and create the appropriate positions. (Action: CA, in coordination with M/DGHR)

HR informed OIG that it will review the junior officer rotational program (JORP) with this recommendation in mind. HR believes that the JORP provides career building benefits that should not be discarded unless it is clear that these junior officers are less able to handle visa duties. Unfortunately, many consular supervisors informed OIG that this is precisely what happens with many JORP officers – they are not assigned to consular work long enough to acquire the visa adjudication skills to meet the new levels of performance required to improve U.S. border security.

HR expressed the view that Department junior officers are the very best resource to adjudicate visa applications and staff consular sections. HR states “our goal is to fully staff consular sections with the brightest officers, who have all the training and skills required for this critical responsibility.”

OIG fully supports this goal and HR’s stated priority that “every officer assigned to a consular position abroad to have the language skills necessary to do the job.” HR goes on to comment that “the single most important factor in expanding the language ability of the Foreign Service is additional personnel and resources.”

OIG agrees that additional personnel and resources are needed, not only to provide more and better training, but also to ensure full staffing at all consular posts, particularly at those critical threat posts in countries of concern due to homeland security considerations. Until the Department obtains the resources needed to staff consular positions with adequately trained personnel, the measures OIG prescribes remain vital to meet the immediate need to improve border security. These measures include discontinuing the JORP and developing alternative personnel strategies such as hiring language qualified employees on limited, non-renewable Foreign Service appointments.

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RESOURCES

The review found that data concerning the number of consular officers assigned to adjudicate requests for NIVs is not readily available. The present assignment process properly assigns consular officers to consular positions, not to functions within the positions. It further assigns consular cone officers to other, non-consular positions and does not calculate the time spent by non-consular junior officers doing consular work or officers on rotational assignments. Given all the variables, it is not possible to estimate staff hours devoted to NIV processing within the time period of this review. The resource assumptions made throughout this report are based on the collective experience of the team members.

Recommendation 15: The Bureau of Consular Affairs, in conjunction with the Bureau of Human Resources, should study the utilization of staff hours assigned to the various consular functions to create a baseline for the number of hours needed to perform the consular work. (Action: CA, in coordination with M/DGHR)

Workspace Problems

Many consular sections have inadequate workspace. Access is sometimes poorly controlled and often difficult due to security concerns. Interview windows are frequently totally inadequate with little or no privacy and arrangements that make speaking or hearing almost impossible. Many booths are outdated and do not have space for terminals that would allow the officer to do name checks or make online case notes. Line of sight for supervision is often not available, even in recently renovated sections.

Training

The Enhanced Border Security and Visa Reform Act of 2002¹⁵ requires that, "all consular officers responsible for adjudicating visa applications, before undertaking to perform consular responsibilities, receive specialized training in the effective screening of visa applicants who pose a potential threat to the safety or security of the United States. Such officers shall be specially and extensively trained in the identification of aliens inadmissible under section 212(a)(3) (A) and (B) of the Immigration and Nationality Act, interagency and international intelligence sharing regarding terrorist and terrorism, and cultural sensitivity toward visa applicants."

Visa adjudicators should be able to interview applicants in their native language and be familiar with local culture and conditions, but they are often sent to post without language training or area studies. The Department intentionally restricts language training for first- and second-tour officers, because it is reluctant to invest much time and money in an

¹⁵ Pub. L. No. 107-173 (2002).

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untenured officer who might not make the Foreign Service a career. In addition, training in some "hard" languages is necessarily lengthy, requiring up to two years -- a long time for a career candidate trying to establish professional competence and gain tenure.

The Department considers a speaking and reading level of 3 on a 5-point scale (S-3/R-3) to be a professional competency. Average students reach the 3/3 level after four or five months of concentrated full-time training, if they are learning one of the "easy" languages such as French or Spanish. To reach the same level in a "hard" language, such as Chinese or Arabic, normally takes two years of full-time study. The second year is taught overseas in a country where that language is spoken.

Many language-trained consular officers have reported that the training was not tailored to their needs, particularly interviewing. Little or no training is given in making effective use of an interpreter, although FSN visa clerks often translate on the visa line.

[-----

----- (b)(2) -----

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"Area studies" courses, which familiarize students with the social and political cultures of a region, generally do not provide the information visa officers most need. Post-specific language insights and interviewing techniques, acquired during a two- or three-year assignment, are rarely passed on to successors because of pervasive staffing gaps.

Recommendation 16: The Department should require language training for consular positions, and all consular officers should be required to be able to communicate at least at the basic level (S-2/R-2). (Action: M/DGHR)

Recommendation 17: The Department should finalize and implement plans to adapt language training to serve better the needs of consular officers, including interviewing techniques. (Action: M/FSI)

Recommendation 18: The Department should assign officers with appropriate Middle East languages and area knowledge to major visa-processing posts outside the Middle East.
(Action: M/DGHR)

Visa officers' interview skills are sometimes weak. [-----

----- (b)(2) -----

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NFATC informed OIG that it has plans to expand interview training courses for consular officers.

Recommendation 19: The Department should fund the development of interview training to implement plans to use expert outside specialists to train consular officers in identifying applicants who, in particular, are terrorists or who are otherwise untruthful, and expand the basic consular course to include this additional training. (Action: M/FSI)

CLASS and the Visas Viper Program

The Department created the visas viper program in August 1993 in response to the need to improve information sharing among foreign policy, intelligence and law enforcement agencies of the U.S. government. Current Viper instructions are contained in 2002 State 157320. The program is designed to increase terrorism reporting from Foreign Service posts abroad by providing a consular channel for "watch listing" suspected terrorists who may at some future time apply for a visa to the United States. To qualify for watchlisting there must be information that would provide "reasonable suspicion" that the individual has or might engage in terrorism against the United States or its interests, but it does not require that the individual have ever applied or attempted to apply for a visa in the past.

Visas viper information is collected at each visa issuing post by terrorist lookout committees often called Visas Viper Committees. These committees included a broad range of mission elements. The committee is chaired by the DCM and a consular section representative acts as coordinator. Names and biographic information on persons believed eligible for watchlisting are submitted by cable to Washington, and a decision is made by the Bureau of Information and Research as to their inclusion.

The names of those identified as potential terrorists are added to CLASS. CLASS is the single watch list available to consular officers adjudicating visas, and every visa applicant must be name checked prior to adjudication and issuance. CLASS is the best tool available to consular officers to prevent visa issuance to terrorists.

OIG conducted a review of the visas viper process as part of this survey of visa issuance procedures. The findings and recommendations are contained in a classified portion of this report. For the purposes of this unclassified portion the findings can be summarized as follows. The visas viper program is a valuable tool in the war on terrorism and the effort to strengthen American security. More resources should be devoted to the program, however, and the guidance should be clearer. The headquarters of the participating agencies should have a larger role in the program and give it a higher priority.

Summary

Until the events of September 11, the visa process was seldom considered a major element of national security. This is so despite the fact that after the first attack on the World

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Trade Center, Congress mandated the issuance of machine readable visas and CLASS name checks worldwide, while authorizing a visa application fee to provide funding to make this possible. The Visas Viper Program was also created. The post-September 11 era should have witnessed immediate and dramatic changes in CA's direction of the visa process. This has not happened. A fundamental readjustment by Department leadership regarding visa issuance and denial has not taken place. The Department still does not fully appreciate the consular function as part of a coordinated national effort to manage border security and implement the INA, both to prevent the travel of those who might present risks to the United States and its citizens and also to facilitate legitimate travel. CA continues to experience shortcomings that include:

- Lack of uniformity in visa processing from post to post, and
- Lack of a planning staff to develop and advance options for consular input into border security initiatives and directions.

If the visa process is to be made more secure, it must be considered as a part of a larger process beginning with the visa process and continuing through the admission of aliens to the United States and tracking them while they remain in this country. As Congress recognized when it mandated worldwide implementation of machine readable NIVs, financial and human resources must be provided to realize these changes. The Department at every level must rethink its approach to this task and devote the necessary resources and effort to it. New leadership in the Bureau of Consular Affairs is committed to continuing efforts to minimize the vulnerabilities in visa processing.

This review was begun before the passage of legislation creating the Department of Homeland Security and vesting it with major responsibilities with regard to visas. Nevertheless, the findings of this report and the recommendations remain valid no matter where the ultimate authority for visa policy and issuance resides.

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ABBREVIATIONS

CA	Bureau of Consular Affairs
CLASS	Consular Lookout and Support System
DCM	Deputy chief of mission
FPU	Fraud Prevention Unit
FSN	Foreign Service national
HR	Bureau of Human Resources
INA	Immigration and Nationality Act
NIV	Nonimmigrant visa
NSEERS	National Security Entry Exit Registration System
OIG	Office of Inspector General
TARP	Travel Agents Referral Program

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APPENDIX A

LIST OF VISA ISSUING POSTS

As of 10/01/01

COUNTRY	POST	SERVICES
ALBANIA	TIRANA (E)	ALL
ALGERIA	ALGIERS (E)	LIMITED NIV & IV
ANGOLA	LUANDA (E)	NIV
ARGENTINA	BUENOS AIRES (E)	ALL
ARMENIA	YEREVAN (E)	NIV
AUSTRALIA	CANBERRA (E)	ALL
	MELBOURNE (CG)	NIV
	SYDNEY (CG)	ALL
	PERTH (CG)	ALL
AUSTRIA	VIENNA (E)	ALL
AZERBAIJAN	BAKU (E)	NIV
BAHAMAS	NASSAU (E)	ALL
BAHRAIN	MANAMA (E)	ALL

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BANGLADESH	DHAKA (E)	ALL
BARBADOS	BRIDGETOWN (E)	ALL
BELARUS	MINSK (E)	NIV
BELGIUM	BRUSSELS (E)	ALL
BELIZE	BELIZE CITY (E)	ALL
BENIN	COTONOU (E)	ALL
BERMUDA	HAMILTON (CG)	ALL
BOLIVIA	LA PAZ (E)	ALL
BOSNIA AND HERZEGOVINA	SARAJEVO (E)	NIV
BOTSWANA	GABORONE (E)	NIV
BRAZIL	BRASILIA (E)	NIV
	RIO DE JANEIRO (CG)	ALL
	SAO PAULO (CG)	NIV
	RECIFE (C)	NIV
BRUNEI	BANDAR SERI BEGAWAN (E)	NIV
BULGARIA	SOFIA (E)	ALL
BURKINA FASO	OUAGADOUGOU (E)	ALL

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BURMA	RANGOON (E)	ALL
BURUNDI	BUJUMBURA (E)	NIV
CAMBODIA	PHNOM PENH (E)	ALL
CAMEROON	YAOUNDE (E)	ALL
CANADA	OTTAWA (E)	NIV
	CALGARY (CG)	NIV
	HALIFAX (CG)	NIV
	MONTREAL (CG)	ALL
	QUEBEC (CG)	NIV
	TORONTO (CG)	NIV
	VANCOUVER (CG)	NIV & K
CAPE VERDE	PRAIA (E)	ALL
CENTRAL AFRICAN REPUBLIC	BANGUI (E)	NIV
CHAD	N'DJAMENA (E)	NIV
CHILE	SANTIAGO (E)	ALL
CHINA	BEIJING (E)	NIV
	GUANGZHOU (CG)	ALL

UNCLASSIFIED

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	SHANGHAI (CG)	NIV
	SHENYANG (CG)	NIV
	CHENGDU (CG)	NIV
COLOMBIA	BOGOTA (E)	ALL
COMOROS	PORT LOUIS (E)	NIV
CONGO, DEMOCRATIC REPUBLIC OF THE	KINSHASA (E)	ALL
CONGO, REPUBLIC OF THE	KINSHASA (E)	ALL
COSTA RICA	SAN JOSE (E)	ALL
COTE D'IVOIRE	ABIDJAN (E)	ALL
CROATIA	ZAGREB (E)	ALL
CUBA	HAVANA (USINT)	ALL
CYPRUS	NICOSIA (E)	ALL
CZECH REPUBLIC	PRAGUE (E)	ALL
DENMARK	COPENHAGEN (E)	ALL
DJIBOUTI	DJIBOUTI (E)	ALL
DOMINICAN REPUBLIC	SANTO DOMINGO (E)	ALL
ECUADOR	QUITO (E)	NIV

UNCLASSIFIED

UNCLASSIFIED

	GUAYAQUIL (CG)	ALL
EGYPT	CAIRO (E)	ALL
EL SALVADOR	SAN SALVADOR (E)	ALL
ERITREA	ASMARA (E)	NIV AND K
ESTONIA	TALLINN (E)	NIV
ETHIOPIA	ADDIS ABABA (E)	ALL
FIJI	SUVA (E)	ALL
FINLAND	HELSINKI (E)	ALL
FRANCE	PARIS (E)	ALL
GABON	LIBREVILLE (E)	ALL
GAMBIA, THE	BANJUL (E)	NIV
GEORGIA	TBILISI (E)	NIV
GERMANY, FEDERAL REPUBLIC	BONN (E)	NIV
	BERLIN (BO)	NIV
	FRANKFURT (CG)	ALL
GHANA	ACCRA (E)	ALL
GREECE	ATHENS (E)	ALL

UNCLASSIFIED

UNCLASSIFIED

GRENADA	BRIDGETOWN (E)	ALL
GUATEMALA	GUATEMALA CITY (E)	ALL
GUINEA	CONAKRY (E)	NIV
GUINEA-BISSAU	LISBON (E)	NIV
	DAKAR (E)	IV
GUYANA	GEORGETOWN (E)	ALL
HAITI	PORT-AU-PRINCE (E)	ALL
HONDURAS	TEGUCIGALPA (E)	ALL
HONG KONG	HONG KONG (CG)	ALL
HUNGARY	BUDAPEST (E)	ALL
ICELAND	REYKJAVIK (E)	ALL
INDIA	NEW DELHI (E)	ALL
	MUMBAI (CG)	ALL
	CALCUTTA (CG)	ALL- (IV:IR3, IR4,SB1)
	CHENNAI (CG)	ALL
INDONESIA	JAKARTA (E)	ALL
	SURABAYA (CG)	NIV

UNCLASSIFIED

UNCLASSIFIED

IRELAND	DUBLIN (E)	ALL
ISRAEL	TEL AVIV (E)	ALL
	JERUSALEM (CG)	ALL
ITALY	ROME (E)	NIV
	MILAN (CG)	NIV
	NAPLES (CG)	ALL
JAMAICA	KINGSTON (E)	ALL
JAPAN	TOKYO (E)	ALL
	NAHA (CG)	ALL
	OSAKA KOBE (CG)	NIV
JORDAN	AMMAN (E)	ALL
KAZAKHSTAN	ALMATY (E)	NIV
KENYA	NAIROBI (E)	ALL
KOREA	SEOUL (E)	ALL
KUWAIT	KUWAIT (E)	ALL
KYRGYZSTAN	BISHKEK (E)	NIV
LAOS	VIENTIANE (E)	ALL

UNCLASSIFIED

UNCLASSIFIED

LATVIA	RIGA (E)	NIV
LEBANON	BEIRUT (E)	LIMITED NIV
LESOTHO	MASERU (E)	NIV
LIBERIA	MONROVIA (E)	ALL
LITHUANIA	VILNIUS (E)	NIV
LUXEMBOURG	LUXEMBOURG (E)	NIV
MACEDONIA (FORMER YUGO REPUBLIC OF)	SKOPJE (E)	NIV
MADAGASCAR	ANTANANARIVO (E)	ALL
MALAWI	LILONGWE (E)	ALL
MALAYSIA	KUALA LUMPUR (E)	ALL
MALI	BAMAKO (E)	NIV
MALTA	VALLETTA (E)	ALL
MARSHALL ISLANDS	MAJURO (E)	NIV
MAURITANIA	NOUAKCHOTT (E)	NIV
MAURITIUS	PORT LOUIS (E)	NIV
MEXICO	MEXICO DF (E)	NIV
	CIUDAD JUAREZ (CG)	ALL

UNCLASSIFIED

	GUADALAJARA (CG)	NIV
	MONTERREY (CG)	NIV
	TIJUANA (CG)	NIV
	HERMOSILLO (CG)	NIV
	MATAMOROS (C)	NIV
	MERIDA (C)	NIV
MICRONESIA	KOLONIA (E)	NIV
MOLDOVA	CHISINAU (E)	NIV
MONGOLIA	ULAANBAATAR (E)	NIV
MOROCCO	CASABLANCA (CG)	ALL
MOZAMBIQUE	MAPUTO (E)	NIV
NAMIBIA	WINDHOEK (E)	NIV
NEPAL	KATHMANDU (E)	ALL
NETHERLANDS	THE HAGUE (E)	NO VISAS ISSUED
	AMSTERDAM (CG)	ALL
NETHERLANDS ANTILLES	BRIDGETOWN (E)	ALL (FOR NATIONALS OF SARAJEVO)
NEW ZEALAND	AUCKLAND (CG)	ALL

UNCLASSIFIED

UNCLASSIFIED

NICARAGUA	MANAGUA (E)	ALL
NIGER	NIAMEY (E)	ALL
NIGERIA	LAGOS (E)	ALL
NORWAY	OSLO (E)	ALL
OMAN	MUSCAT (E)	ALL
PAKISTAN	ISLAMABAD (E)	ALL
PALAU	KOROR (E)	NIV
PANAMA	PANAMA CITY (E)	ALL
PAPUA NEW GUINEA	PORT MORESBY (E)	ALL
PARAGUAY	ASUNCION (E)	ALL
PERU	LIMA (E)	ALL
PHILIPPINES	MANILA (E)	ALL
POLAND	WARSAW (E)	ALL
	KRAKOW (CG)	NIV
PORTUGAL	LISBON (E)	ALL
	PONTA DELGADA (C)	ALL
QATAR	DOHA (E)	ALL

UNCLASSIFIED

UNCLASSIFIED

ROMANIA	BUCHAREST (E)	ALL
RUSSIA	MOSCOW (E)	ALL
	ST. PETERSBURG (CG)	NIV
	VLADIVOSTOK (CG)	NIV
	YEKATERINBURG (CG)	NIV
RWANDA	KIGALI (E)	NIV
SAMOA	AUCKLAND (CG)	NIV
SAO TOME & PRINCIPE	LIBREVILLE (E)	ALL
SAUDI ARABIA	RIYADH (E)	ALL
	JEDDAH (CG)	NIV
SENEGAL	DAKAR (E)	ALL
SEYCHELLES	PORT LOUIS (E)	NIV
SIERRA LEONE	CONAKRY (E)	NIV
SINGAPORE	SINGAPORE (E)	ALL
SLOVAK REPUBLIC	BRATISLAVA (E)	NIV
SLOVENIA	LJUBLJANA (E)	NIV
SOUTH AFRICA	PRETORIA (E)	DIPLOMATIC AND OFFICIAL

UNCLASSIFIED

UNCLASSIFIED

	CAPE TOWN (CG)	NIV
	DURBAN (CG)	NIV
	JOHANNESBURG (CG)	ALL
SPAIN	MADRID (E)	ALL
SRI LANKA	COLOMBO (E)	ALL
SURINAME	PARAMARIBO (E)	ALL
SWAZILAND	MBABANE (E)	NIV
SWEDEN	STOCKHOLM (E)	ALL
SWITZERLAND	BERN (E)	ALL
SYRIA	DAMASCUS (E)	ALL
TAJIKISTAN	ALMATY OR TASHKENT	NIV
	MOSCOW (E)	IV
TANZANIA	DAR ES SALAAM (E)	ALL
THAILAND	BANGKOK (E)	ALL
	CHIANG MAI (CG)	NIV
TOGO	LOME (E)	ALL
TRINIDAD AND TOBAGO	PORT OF SPAIN (E)	ALL

UNCLASSIFIED

UNCLASSIFIED

TUNISIA	TUNIS (E)	ALL
TURKEY	ANKARA (E)	ALL
	ISTANBUL (CG)	NIV
TURKMENISTAN	ASHGABAT (E)	NIV
UGANDA	KAMPALA (E)	NIV
UKRAINE	KIEV (E)	NIV
UNITED ARAB EMIRATES	ABU DHABI (E)	ALL & BEIRUT FILES
	DUBAI (CG)	NIV
UNITED KINGDOM	LONDON (E)	ALL
	BELFAST – NORTHERN IRELAND (CG)	NIV
URUGUAY	MONTEVIDEO (E)	ALL
UZBEKISTAN	TASHKENT (E)	NIV
VENEZUELA	CARACAS (E)	ALL
VIETNAM	HANOI (E)	NIV EXCEPT B VISAS
	HO CHI MIN CITY (CG)	ALL
YEMEN	SANAA (E)	ALL
ZAMBIA	LUSAKA (E)	ALL

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ZIMBABWE	HARARE (E)	ALL
OTHER		
DEPARTMENT OF STATE	CA/VO/P/D	RE-ISSUES E,H,I,L,O AND P P P VISAS
USUN	New York	G VISAS ONLY
TAIWAN (AIT)	Taipei	ALL

The Taipei office of the American Institute in Taiwan, although an unofficial instrumentality, has been authorized to process visa applications for residents of Taiwan.

(E) - Embassy (CG) - Consulate General (C) - Consulate

(USINT) - U.S. Interests Section (BO) - Branch Office

(IV) - Immigrant Visa (NIV) - Nonimmigrant Visa

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APPENDIX B

LIST OF POSTS VISITED

ABU DHABI
ALGIERS
AMMAN
ANKARA
BRUSSELS
CAIRO
DAMASCUS
DHAKA
DOHA
DUBAI
FRANKFURT
ISLAMABAD
ISTANBUL
JEDDAH
KUALA LUMPUR
KUWAIT
LONDON
MANILA
MONTREAL
MOROCCO
PARIS
RIYADH
SANAA
SINGAPORE
TORONTO
TUNIS
VALLETTA

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APPENDIX C

LIST OF POSTS WITH TRAVEL AGENCY REFERRAL PROGRAMS

AIT TAIWAN
ASUNCION
ATHENS
BRASILIA
BRATISLAVA
BUDAPEST
CAPETOWN
CARACAS
GUAYAQUIL
ISTANBUL
JERUSALEM
JOHANNESBURG
KRAKOW
KUALA LUMPUR
LISBON
MILAN
MONTEVIDEO
MOSCOW
NAHA
NICOSIA
OSAKA
PANAMA
PONTA DELGADO
PORT AU PRINCE
PRAGUE
QUITO
RIO DE JANEIRO
SANTIAGO
SAO PAULO
SEOUL
SHANGHAI
SINGAPORE
SYDNEY
TEGUCIGALPA
TEL AVIV
TOKYO
TORONTO
VALLETTA

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COMMENTS FROM AFFECTED BUREAUS

Consular Affairs (CA)	(8 pages)
Foreign Service Institute (FSI)	(2 pages)
Intelligence and Research (INR)	(1 page)
Overseas Buildings Operations (OBO)	(note)
Human Resources (HR)	(4 pages)

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December 11, 2002

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MEMORANDUM

To: OIG - Mr. Clark Kent Ervin
From: CA - Maura Harty
Subject: Draft Inspection Memorandum Report on Visa Issuance Policy and Procedures

Thank you for the opportunity to comment on the discussion draft of the OIG report on "Review of Visa Issuance Policy and Procedures." In general, we found it a balanced and thoughtful report on the conduct of consular operations against the backdrop of heightened security threats. Indeed, many of the recommendations are initiatives that we have already undertaken.

The report naturally focuses on changes required to improve US border security, but I believe it is important to also acknowledge the security enhancements made both before and after the events of September 11, 2001. We believe that a casual reader should have access to a balanced picture and so have provided an attachment that lists just some of the improvements to the visa process made since 9/11 as well as additional initiatives CA has undertaken. Viewed as a whole, I believe the measures already taken and initiatives underway in large measure parallel the spirit and thrust of your report. This is clearly a work in progress and CA's new leadership team is determined to improve every aspect of the Bureau's performance in the war against terrorism.

The consular world changed on 9/11 and we are determined to do all that we can to ensure the security of our nation's borders and the integrity of our visa process. We are also working hard to implement the sweeping changes of the USA Patriot Act and the Enhanced Border Security Act. The establishment of the Department of Homeland Security will also entail fundamental changes in the visa and border security policies of the United States. In other words, our list of initiatives is just a

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partial snapshot of a process of review and improvement that will remain an ongoing effort by the Bureau of Consular Affairs.

With that in mind, let me offer the following specific comments on your draft report.

Background and Summary

I believe the "Background and Summary" on pages 1 and 2 is unfair in its description of a visa process "inadequate to meet the threat." While we are working everyday to further enhance our efforts and capabilities, TIPOFF, the Consular Consolidated Database (CCD), the Arabic algorithm in CLASS, the Visas Mantis program and in fact all special advisory opinion procedures, the MRV system and its Lincoln visa successor, and the many other enhancements to CA systems and procedures reflect a long-term focus on adjusting consular processes to meet the threats identified by the border security agencies and the intelligence community. We have a vibrant approach to challenge and to change. I believe the summary statement gives short shrift to "on the ground realities." In all cases when a threat has been identified with a degree of specificity that allows practical counter measures to be taken by consular sections, those programs are implemented.

Waiver of Personal Appearance

The section entitled "Policy Issues" begins with the discussion of waivers of personal appearance, rightly identified as an area where changes are needed to meet the realities of the post 9/11 world. CA has been reviewing this issue and expects to promulgate new regulations in the next several weeks. Final action is pending until the interview policy can be reviewed thoroughly, taking into account resources as well as other needed changes in the visa process such as enhanced consular training in interview techniques and additional security screening procedures.

In the discussion of this issue (on page 5 in the current draft) a link is made between consolidating consular operations and pressure to waive personal appearance. The point is valid. I believe it would be clearer if the issue of long-distance travel, sometimes across international borders, were explicitly mentioned. The same paragraph goes on to mention visa referral policies and ends with the line "applicants assume that a referral will guarantee the issuance of a visa." While we cannot control what an applicant thinks, this reference leaves the impression that visa referrals are a weakness without clarifying what the term means. Specifically, any negative

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reference to the referral program should be balanced by pointing out that it is fundamentally a management control technique to formalize the process and provide accountability when information on prospective travelers is available to others in the mission.

Concerning Recommendation 1, CA believes that policies and procedures for waiving personal appearance should be written in CA and reviewed for appropriateness by Chiefs of Mission. CA plans to implement shortly worldwide standards stricter than those envisioned in the OIG recommendation, with the provision that exceptions to established procedure must be approved in writing by the DAS for Visa Services.

Travel Agency Referral Program

The next policy issue addressed is the use of travel agencies in the visa application process. Although I understand that the phrase "travel agency referral program," or "TARP," appeared in some reporting on this issue, this title is misleading. Travel agents in almost all cases are considered tools to assist applicants in completing their applications properly, obtaining properly formatted photographs, and submitting the application to consular sections for processing. In nearly all cases, a case submitted through a travel agent might just as well have been mailed or hand-carried in - there is no material difference in the way it is processed. All applications are vetted and all applicants namechecked.

The second paragraph on page 6 includes the statement "there is no standing guidance on validation studies from CA." FPP's intranet website contains detailed instructions on conducting a validation study in 98 State 046225. This guidance still stands, and is amplified in FPP's training during our FPM course, our segment in the Advanced Consular Course, and our FSN workshop.

CA concurs that posts need more explicit guidance in the use of travel agencies and is currently developing an approach that is considerably more restrictive than that reflected in the draft's Recommendation 2. CA is reviewing the degree to which it is appropriate to use travel agencies as "force multipliers" to facilitate document preparation and public outreach and will provide standard guidance to the field on this issue.

CA Oversight and Procedural Guidance

The discussion of standard operating procedures begun on page 7 reflects our thinking on this important issue. CA, both in the

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context of working with the Department of Homeland Security and as an ongoing management review, intends to consolidate and standardize guidance to the field.

On this same subject, the OIG should be aware that CA has initiated a program to use automated link analysis and research tools available through DS to perform fraud checks on employment-based IV petitions at the National Visa Center. A civil service Fraud Program Manager is currently being hired for NVC, and a formal fraud unit will be established within the next few months. After experience with these tools is gained at NVC, VO intends to expand fraud program activities to KCC, working with employment-based NIV petition cases.

CA concurs whole-heartedly with Recommendation 3 concerning standardized operating procedures. We expect to work closely with the Department of Homeland Security in this area over the coming months. (We note that Recommendation 3 is not entirely consistent with the first recommendation, which favors local SOP's. CA believes that consistent, Department-generated procedures are more appropriate.)

Recommendations 4 through 6 deal with the clearance process. CA agrees that both U.S. national security and concern for appropriate allocation of border security resources require the ongoing review and refinement of clearance procedures. CA has been intensely engaged with the interagency community on this issue since the events of 9/11 and expects to continue this effort to ensure effective and meaningful screening of prospective travelers to the US. As it is unlikely that all screening criteria can be made unclassified, CA endorses any effort to facilitate consular section access to classified material.

Executive Oversight

As the draft rightly points out, the issue of review of issuances and refusals at smaller posts without senior consular management is a concern. CA has recently issued revised guidance to the field on this issue and expects the issue of accountability and adequate training of supervisors to continue to require our attention. (CA guidance largely implementing this recommendation is contained in 9 FAM 41.121; 41.113; and Appendix G 101.6(c), in addition to ALDAC messages State 45437, dated March 8, 2002 and entitled "New Procedures for Refusal of Nonimmigrant Visas," State 111136 dated June 8, 2002 and entitled "New FAM Notes on Spot Checking Issued Nonimmigrant Visas, and State 147564 dated August 1, 2002, entitled "New Visa

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Accountability at Small Posts.") We also have begun consulting with FSI and the DG's office on additional training for Deputy Chiefs of Mission in consular oversight functions.

We believe that the discussion at the top of page 10 concerning the visa referral process and the Visas Condor clearance is misleading. One sentence reads: "The beneficiaries [of Class A referrals] are specifically excluded from a new security advisory opinion requirement." It is important to note that, although Class A referral cases may be excluded from the Visas Condor clearance, this is done at the discretion of the interviewing consular officer. The word "specifically" should be changed to "may be." The same holds true for waiver of personal appearance and interview. Although interview is normally waived for Class A referral cases, consular officers may always require personal appearance when it appears necessary.

Current guidance on the referral system makes it clear that referring officers are responsible for the cases that they refer and that permanent records of referrals made will be kept (through the automated NIV system). However, CA concurs with the suggestion in Recommendation 8 to establish a system of formal accountability certification and identification of other interested parties in the mission.

As the OIG is aware, exemptions from the NSEERS registration requirement already require the certification of the Chief of Mission, DCM or Principal Officer. Recommendation 9 suggests that same procedure be put in place for exemptions from the Visas Condor clearance, with the implication that an explicit link to the referral process is maintained. Although CA is not opposed to more stringent standards for exemptions from special clearance requirements, it is not clear whether it is useful to continue the linkage to the visa referral process. We will study this issue in the coming months.

Staffing

Recommendation 10 concerns the discontinuation of the practice of assigning junior officers to rotational positions in consular sections. CA supports this recommendation, although we acknowledge the training value that these positions provide and note that this recommendation requires support from HR.

Recommendation 11 endorses the expansion of alternative staffing programs. This is at variance with CA's own efforts to identify a role for Consular Associates that allows them to support

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consular processing without being involved in visa adjudication. We believe that there will be plenty of new work once biometric requirements are added to the mix in 2004.

Recommendation 12 concerns the review and reclassification of consular position descriptions. CA endorses this recommendation.

Recommendation 13 suggests that only consular officers who have already completed at least one consular assignment be assigned to one-person consular sections. CA strongly supports this recommendation, but implementation is dependent on factors beyond our control.

Recommendation 14 concerning review and possible regionalization of consular work meshes with ongoing CA activity in this area.

Likewise, the review of the regional consular officer program called for in Recommendation 15 is already a CA priority.

Resources

CA/EX, through the annual consular package and other mechanisms, engages in continual review of consular resource requirements. Of particular concern during the past year is the impact of security-driven changes in personnel rules affecting the responsibilities of FSN and non-traditional American personnel (such as consular associates) in consular sections. Recommendation 16 addresses these issues.

Training

CA acknowledges the value of Recommendations 17, 18 and 19 concerning language training and assignments and looks forward to working with HR and FSI in these areas. In fact, we have already begun discussion of these issues with senior management.

The addition of specific interview training to the basic consular course as suggested in Recommendation 20 is important and in fact has already been done.

I defer to FSI to provide further details concerning this initiative.

CLASS and the Visas Viper Program

Finally, concerning the Visas Viper program originally introduced in 1993, a consolidated national watch list and interoperable databases have been the subject of attention throughout the USG since the events of 9/11. CA believes strongly, as noted in the report, that properly coordinated

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intelligence is the real key to protecting America's borders and looks forward to working with other border security and intelligence agencies and the Department of Homeland Security to make the Visas Viper program as robust as possible.

Concluding Summary

The report's conclusion raises similar concerns as those cited earlier in the "Background and Summary" section. CA and at times the Department are faulted in isolation for actions or inactions that are but a piece of a total picture that includes the entire national security and immigration policy apparatus of the United States government. Can improvements be made? Of course. And the new CA management team is dedicated to that very goal.

The Bureau has made major improvements to the visa process and worked tirelessly with other agencies toward our common goal of a more secure America. The summary which begins on page 15 incorrectly states that there have been no "immediate and dramatic" changes in the visa process. One small statistic of great importance is the fact that the CLASS namecheck system virtually doubled in size post-9/11 - virtually doubling the possibility of identifying a person of interest for the law enforcement and intelligence communities. Additional examples are to be found in the tab appended ("CA initiatives to improve security of visa process").

Once again, we appreciate the opportunity to comment on the draft provided to us. We hope in the future to return to a longer time-frame in which to respond, but understand current exigencies. We look forward to working with your staff on this and future projects.

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December 11, 2002

MEMORANDUM

TO: OIG – Clark Kent Ervin

FROM: FSI – Katherine H. Peterson

SUBJECT: Draft Inspection Memorandum Report on Visa Issuance Policy and Procedures

Below, please find FSI's comments on recommendations 17 and 19 in the draft inspection memorandum report. If you have any questions, please contact Ms. Catherine J. Russell, Executive Director for Management at [----- (b)(6) -----]

FSI Response to OIG Draft Inspection Memorandum Report on
Visa Issuance Policy and Procedures

Recommendation 17: Language training should be adapted to serve better the needs of consular officers and should include interviewing techniques. (Action: M/FSI)

FSI concurs with the recommendation. Currently in most language curricula, there are specialized modules developed in coordination with posts and FSI's Consular Training Division. Language students assigned to consular positions are given the opportunity to work with consular modules in the latter stages of their scheduled training. The topics include interview practice on the topics of immigrant and nonimmigrant visas as well as arrests, deaths, welfare-and-whereabouts of U.S. citizens, and telephone inquiries. There is also work with documents such as birth and marriage certificates, government forms, etc. FSI is currently updating consular tradecraft materials in Arabic in consultation with posts and CA, and plans to expand consular tradecraft training throughout the language school. These materials will increase the emphasis on interviewing skills.

Recommendation 19: The Department should fund the development of interview training materials designed to satisfy visa officers' needs and expand the basic consular course to include this additional training. (Action M/FSI)

FSI concurs with this recommendation. As noted by the OIG, the Consular Training Division has already augmented the training previously provided on interviewing in ConGen. In addition, we have developed a plan to use the expertise of an outside expert on interviewing, which is intended to give ConGen students additional, substantial help in identifying illegitimate travelers/applicants. We hope to give our students the benefit of the knowledge of the best interviewing experts in the U.S.

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To: OIG - Mr. Clark Kent Ervin
From: INR - Christopher A. Kojm
Subject: OIG Draft report on visa processing
Reference: OIG Memo dated 12/4/2002

Thank you for the opportunity to comment on the OIG draft memorandum report titled "Visa Issuance Policy and Procedures."

Recommendation 5 of the draft report tasks INR, in conjunction with the Visa Office, to review clearance procedures instituted since 9/11 and "determine which clearance requirements are providing improved security." INR should be removed from this recommendation as a primary action office. INR does not have the ability to undertake such a review nor is the Bureau in a position to provide the judgments sought.

We understand that CA is currently engaged in such a review. INR, at the request of D/HS, in the past has acted to facilitate the drafting of Intelligence Community threat assessments with regard to specific country clearance requirements. We are fully prepared to continue this function as requested, as well as to perform other intelligence liaison functions as appropriate.

Please let me know if OIG proposes not to revise the draft recommendation as requested.

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OBO has indicated that it has no comments on the draft memorandum report at this time.

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MEMORANDUM

TO: IG - Clark Kent Ervin

FROM: M/DGHR - Ruth A. Davis

SUBJECT: Draft OIG Review of Visa Issuance Policy

We appreciate the opportunity to review the OIG's draft report and to offer preliminary comments. We recognize that this review was conducted in a short time frame and that additional study of these issues within the Department will continue. This report should add to the body of knowledge being created from completed and ongoing internal reviews and the recent GAO review. HR has participated in this process and continues to work with CA to ensure that consular staffing issues are addressed.

In general, we note that many of the recommendations are sweeping and would have serious resource and assignment implications. Therefore, we have not been able in this short timeframe to do a serious analysis of the issues. However, we provide our initial comments on the specific recommendations below.

Recommendation 10: The Department should discontinue most junior officer rotational assignments that include one year in a consular section, and instead assign each junior officer to two-year consular tours.

We will review the JORP program with this recommendation in mind. Such a review will be in the context of ensuring adequate training of junior officers and review of their responsibilities to ensure that in the new environment, they are prepared for the increasingly complex work of visa adjudication. We believe that the JORP program provides many career enhancing and morale building benefits that should not be discarded unless it is clear that those junior officers are less able to handle visa duties. No junior officer is single-handedly expected to adjudicate visa requests of such complexity that an additional twelve months of experience will make a material difference in their performance.

However, there may be other approaches that would respond to the concern. We believe that supervision is key - regardless of how long junior officers spend in the section - to ensuring that junior officers perform well. We recognize that increased responsibilities, combined with the mid-level staffing gap, have made for stressful, demanding jobs for mid-level consular supervisors. If we continue to receive the resources to support the Diplomatic Readiness Initiative, we would expect that workload would be eased by the increased staffing.

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Recommendation 11: The Bureau of Human Resources should utilize all alternate staffing programs that are available, including hiring language-qualified employees on limited non-career appointments, to adjudicate visa applications and staff consular sections.

We continue to believe that State Department junior officers who have passed a vigorous screening process prior to entry are our very best resource to adjudicate visa applications and staff consular sections. The most important characteristic is the integrity of the consular officer. That is why we recruit the best talent for the Foreign Service and seek those who are motivated by service, who are prepared for a career-long commitment, who can put consular work in a broader context, and who we can train in the additional specific skills required.

We are also focusing our recruiting more intently on candidates who may already possess critical language skills. For example, we recruit heavily at universities with strong language programs and among participants in the National Security Education Program.

While language is important, it is not the primary skill required, and it is one that can be taught. Our goal is to fully staff consular sections with the brightest officers, who have all the training and skills required for this critical responsibility.

Recommendation 12: The Bureau of Human Resources, in conjunction with the Bureau of Consular Affairs, should review all consular positions to determine appropriate position classifications in light of new complexities in consular work, security concerns, and anti-terrorism initiatives.

HR will be undertaking such a review.

Recommendation 13: The Department should establish procedures to ensure that only officers who have completed at least one consular assignment should be assigned to a one-person consular section.

We agree that having first-tour officers staff one-person consular sections is not the optimal situation. However, highly experienced regional consular officers who provide guidance and training through regularly scheduled visits to posts support these officers.

Recognizing the additional threat since 9/11, we are closely monitoring assignments to these posts. As more experienced officers become available through DRI related intake, we will make every effort to assign experienced officers to one-person consular posts. Some positions will be upgraded to mid level as the mid-level officer ranks begin to grow.

Recommendation 17: The Department should require language training for consular positions and all consular officers should be required to be able to communicate at least at the basic level (S-2/R-2).

We make it a priority for every officer assigned to a consular position abroad to have the language skills necessary to do the job. Every year we conduct a review of positions abroad to determine what the language designation of each position should be. The designation is made

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according to the assessed need for language use at each post. In "hard" languages, a 2/0 is generally required when there is no assessed need for reading ability.

Our commitment to providing language training is strong. In the past year we granted only 8 full and 10 partial language waivers to officers assigned to consular positions abroad. Officers who are assigned with a partial language waiver continue their language training at post. In the last year we have increased the training time for junior officers in most of these hard languages from 23 to 36 weeks.

The single most important factor in expanding the ability of the Foreign Service in languages is additional personnel and resources.

Recommendation 19: The Department should assign officers with appropriate Middle East languages and area knowledge to major visa-processing posts outside the Middle East.

We will work with CA and with posts to identify language requirements and to make appropriate assignments to those positions taking into account other priorities and resources.

Recommendation 14: The Department should assess and reallocate consular workloads worldwide and, where missions do not have sufficient consular work to justify a full time consular position, to the extent possible, the work should be performed regionally. Any duties that must be performed in country should be assigned to a tenured officer.

Recommendation 15: The Department should conduct a worldwide review to determine where regional consular positions, vested with supervisory responsibilities and mandated to visit each post quarterly, are appropriate and create the appropriate positions.

Recommendation 16: The Bureau of Consular Affairs, in conjunction with HR, should study the utilization of staff hours assigned to the various consular functions to create a baseline for the number of hours needed to perform the consular functions in the post-9/11 environment.

The HR Bureau has worked closely with CA on the preparation and updates of the consular workload portion of the Overseas Staffing Model, which provides the initial assessment of requirements. We will continue this close relationship and will continue to use our workforce planning tools to assess staffing needs stemming from changes in visa processing requirements.

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